



U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Special Attention:
Public Housing Division Directors,
Native American s Programs Office
Directors, Public Housing Agencies and
Indian Housing Authorities Administering
Section 8 Programs

Notice PIH 97-13 (HA)
Issued: March 18, 1997

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Cross References:

Subject: Lease-Purchase Agreements in the Section 8 Tenant-Based Rental Voucher and Certificate Programs

1. Purpose. The purpose of this notice is to advise housing agencies (HAs) that the current Section 8 tenant-based rental voucher and certificate program regulations do not prohibit the use of lease-purchase arrangements. However, Section 8 is a rental subsidy program. Approval of the unit, the lease, and the terms of the lease must be in accordance with the normal requirements of an assisted tenancy under the programs, including housing quality standards. Section 8 assistance terminates when the family takes title to the unit.
2. Background. The Department is aware of the pressing interest among some HAs and participating families to enter into lease-purchase agreements in order to achieve homeownership. HUD is very supportive of such efforts. The Department wishes to explain opportunities for lease-purchase arrangements for families receiving assistance under the rental voucher and certificate programs under the present rule.
3. Lease-purchase Agreements in the Section 8 Tenant-Based Programs. A lease-purchase agreement is an agreement between an owner and a tenant of a rental unit that gives the tenant the opportunity to purchase that rental unit. The tenant may have either an "option" or an obligation to buy the unit. Regulations for the Section 8 tenant-based rental voucher and certificate programs do not preclude inclusion of a lease-purchase agreement in the lease between the assisted family and the Section 8 owner. Although there are no specific HUD requirements for the lease-purchase arrangements, the lease must contain the same required provisions as for any assisted tenancy.

The Section 8 rental subsidy may continue only as long as an assisted tenant continues to lease the unit. If the family takes title to the unit under a lease-purchase agreement, the assistance contract and rental subsidy will automatically cease.

During an assisted tenancy under the tenant-based rental voucher and certificate programs, the rent to owner for the unit must be reasonable in comparison to the rent for other comparable, unassisted units, as determined by the HA in accordance with HUD requirements. For this purpose, comparable rent may not include any value or increment for the tenant's right to purchase the unit. The rent to owner for the unit must be comparable to the rent charged for units without any lease-purchase arrangement. The rent to owner may not include any cost or payment for the lease-purchase arrangement. Furthermore, the tenant may not pay any amount in excess of the tenant's portion of rent to owner as a condition of occupancy under the lease.

The current Section 8 tenant-based rental voucher and certificate program regulations do not prohibit the use of lease-purchase agreements. HAs may approve leases containing some type of lease-purchase if the lease satisfies all Section 8 program requirements.

/s/

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Acting Assistant Secretary for
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